



Workers Compensation  
Commission

# ***Information Seminar Series***

***October - November 2018***



# Overview

- 1. Legislative amendments and changes to practice and procedure**
- 2. Digital service delivery**
- 3. Good practice**



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# ***Legislative Amendments***



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# **Workers Compensation Legislation Amendment Act 2018**

**Amendments relating to dispute resolution (Schedule 1)**

**Amendments relating to medical assessments for  
permanent impairment (Schedule 2)**

**Amendments relating to pre-injury average weekly  
earnings (Schedule 3)**

**Amendments relating to savings and transitional provisions  
(Schedule 8)**

# **Workers Compensation Legislation Amendment Act 2018**

## **Amendments relating to dispute resolution (Schedule 1)**

- Commencement by proclamation (01/01/19)
- Work capacity disputes will be determined by Commission
- Insurer review of work capacity decision will be optional
- Stay of work capacity decision if dispute lodged in time



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# Workers Compensation Legislation Amendment Act 2018

## Amendments relating to dispute resolution (Schedule 1)

- Registrar may deal with work capacity dispute under Part 5 of Chapter 7 (expedited assessment)
- Limited period for interim payment directions does not apply to work capacity disputes
- Single dispute notice

# Workers Compensation Legislation Amendment Act 2018

## Form 1 – Application for Expedited Assessment

### 1.1 Claim to which dispute relates

Weekly benefits compensation up to 12 weeks (liability/provisional payments)

Weekly benefits compensation (work capacity)

Medical expenses compensation (where the amount is not more than \$7,500 (as indexed))

- 14 days to teleconference
- Reply optional
- 14 days to decision if not settled



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# Workers Compensation Legislation Amendment Act 2018

## Form 2 – Application to Resolve a Dispute

### 1.1 Claim to which dispute relates

#### 1.1A For referral for determination by the Commission (s288 of the 1998 Act)

Weekly benefits (liability)

Weekly benefits (work capacity)

- 28 days to teleconference
- Possible conciliation/arbitration 3-8 weeks
- 21 days to decision if not settled





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# Workers Compensation Legislation Amendment Act 2018

## Amendments relating to savings and transitional provisions (Schedule 8)

- Existing work capacity decisions will be dealt with under existing provisions during transitional review period
- Existing work capacity decision means a work capacity decision made before commencement of Schedule 1 (01/01/19)
- Transitional review period is the period 6 months from commencement (01/01/19) or by regulation



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# Workers Compensation Legislation Amendment Act 2018

## Amendments relating to pre-injury average weekly earnings (Schedule 3)

- Commencement by proclamation (TBA)
- Simplify method of calculating PIAWE



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# Workers Compensation Legislation Amendment Act 2018

## Amendments relating to savings and transitional provisions (Schedule 8)

- PIAWE amendments will not apply to injury before commencement of Schedule 1 amendments (01/01/19)
- PIAWE amendments require regulations and guidelines
- PIAWE working group
- Work capacity disputes before Commission will include old and new PIAWE provisions



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# **Workers Compensation Legislation Amendment Act 2018**

## **Amendments relating to medical assessments for permanent impairment (Schedule 2)**

- Commencement by proclamation (01/01/19)
- No mandatory requirement to refer permanent impairment dispute to AMS

# Workers Compensation Legislation Amendment Act 2018

## Amendments relating to medical assessments for permanent impairment (Schedule 2)

- Removal of restriction preventing Registrar to refer permanent impairment assessment to AMS if liability in issue
- Regulations regarding when medical dispute for permanent impairment authorised, required or not permitted to be referred to AMS
- One assessment of degree of permanent impairment includes determination by Commission



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# **Workers Compensation Legislation Amendment (Firefighters) Bill 2018**

## **Amendments relating to firefighters (Section 19A)**

- Commencement by proclamation (by 01/01/19)
- Presumption of disease injury and substantial contributing factor
- 12 diseases; qualifying periods of service (5/10/15/25 yrs.)
- Retrospective operation (important date: 27/09/18)
- Applies to volunteer bush fire fighters
- Review and report before 01/01/21



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**Questions?**



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# ***The Digital Environment***





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# Content

- Digital Service Delivery Platform
- Website
- Videos
- Videoconferencing



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# Current Digital Service Delivery Environment

## Parties

- Lodgement via email

## Commission

- Sealed forms returned via email
- Directions for Production and Access Orders via email
- Outcome documents issued via email

## Members & Service Providers

- Briefs delivered via online portal
- Outcome documents uploaded via online portal



# Future Digital Service Delivery Environment

## Online Portal for Parties

- Lodge, view and download applications and forms
- Lodge, view and download supporting documents
- View scheduled proceedings
- View and download outcome documents
- SMS notifications
- View and download produced documents
- Set up 'superusers'



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# Registration/Login



## Workers Compensation Commission

Login to the Online Lodgement Portal

Email Address

Password

Terms and Conditions


In using the Workers Compensation Commission digital service delivery platform you:

- are responsible for any activity conducted under your username (email address);
- will avoid any activity that may compromise the security and stability of the platform, its supporting technology and data contained within;
- accept that the Commission is not responsible for loss of any unsaved information;
- acknowledge that the platform may not be available at all times or at any

[+ Register](#) [Reset Password](#) [Login](#)



# Setup Profile

 Workers Compensation Commission [User Profile](#) Logout

## User Profile Save


### User Details

Are you a  Worker  Employer  Insurer/Scheme Agent  Legal Representative  Barrister/Counsel

Surname

Given Name(s)

Title  Other Title

Date of Birth  

Gender  Male  Female  Other Other

### Contact Details

Business Phone

Mobile Phone   I consent to receive SMS reminders from the Commission regarding appointments, etc.

Email

DX Address

Postal Address

Suburb  State  Postcode

International Address Country

Save



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# Portal Menu




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Compensation  
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 Home

 New Application/Form ▾

 Files

 Diary

 User Profile

 Logout

 Home

- provides an overview of functionality

 New Application/Form ▾

- lodge applications/forms

 Files

- list of matters and details of each matter

 Diary

- list of upcoming allocations/events

 User Profile

- displays current contact details



# Matter Details



## Matter Details

[New Form](#)

### 5430/18 WCC Test Worker v WCC Test Employer

Date Filed	Application Type	Issue Type	Next Allocation
17/10/2018	Form 2 - Application to Resolve a Dispute	Weekly benefits (where the period is more than 12 weeks) Lump sum compensation where degree of permanent impairment is in dispute	

### Application Forms 1

Date Filed	Application Type	Filed By Name	Filed By Type	
17/10/2018	Form 2 - Application to Resolve a Dispute	Test Legal Firm	Worker Representative	<a href="#">New Form</a>

### Parties 3

Party Role	Party Name	Party Type	Party Contact	Representative
Other	Employers Mutual NSW Limited	Insurer / Scheme Agent		
Applicant	WCC Test Worker	Worker	12345678901	Test Legal Firm - DO NOT USE (Farrell, ABC 123456789)
Respondent	WCC Test Employer	Employer		

### Documents 6

Document Date	Document Source	Document Category and Type	Related To
17/10/2018	Received Document	Electronic Application Form	Sender: Portal - Recipient:
1/01/2015	Supporting Document	Medical Reports - Other medical reports	17/10/2018: Form 2 - Application to Resolve a Dispute
1/01/2014	Supporting Document	Medical Reports - Treating doctors reports	17/10/2018: Form 2 - Application to Resolve a Dispute
1/01/2012	Supporting Document	Dispute notice - Section 74 notice	17/10/2018: Form 2 - Application to Resolve a Dispute
1/01/2011	Supporting Document	Medical Reports - Forensic medical reports	17/10/2018: Form 2 - Application to Resolve a Dispute



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## Website

- New look and feel
- Easy navigation
- Improved search functionality
- Automatic language translation
- New accessibility features





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# Videos

## Series of 5

- Overview
- Teleconference
- Conciliation Conference/Arbitration Hearing
- Medical Assessment
- Mediation

Translation into six community languages



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# Videoconferencing

## Current Model

- Teleconference
- Face to Face Conciliation Conference/Arbitration Hearing

## Potential Model

- Videoconference
- Face to Face Conciliation Conference/Arbitration Hearing



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**Questions?**



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# ***Good Practice***



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## Supporting Documents

- Order of documents
- Relevance
- Quality
- Duplicates
- Section 74 notice
- Statements, especially worker's statement



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## Order of documents (e-Bulletin No 77, March 2018)

- Witness statements
  - Worker
  - Other witnesses
- Claim forms
- Dispute notices
- Relevant correspondence
- List of payments
- Factual investigation reports,
- Medical reports
- Medical investigation reports
- Clinical notes
- Financial records
  - Wage records
  - Pay slips
  - Bank statements
  - Tax returns
  - Award information



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## Supporting Documents

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## Worker statements

Worker statements should include the following matters (where relevant):

- Prior work history
- Prior injury history
- Names of medical practitioners
- Periods of incapacity
- Current address
- Names and dates of birth of dependants
- A full description of how each injury occurred
- A description of the physical effects of each injury
- Details of any attempt at light work or alternative duties post injury
- Details of all unsuccessful attempts to find suitable work
- Details of any physical restrictions
- Details of the type of suitable duties the worker is fit for
- Details of the availability of suitable work
- Details of the earnings available in suitable employment
- Details of any witnesses to the accident/accidents
- Details of reports of injury
- Details of the compensation claimed including the amount claimed and the relevant periods
- Details of the earnings of comparable employees





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## Dispute Application

- Allegations of injury
- Wage schedule information
- Itemise section 60 expenses (schedule); notice of past benefits; receipts/invoices
- Correctly name respondent, including government entities



## Government entities (e-Bulletin No 60, July 2015)

- Section 26(1), *Government Sector Employment Act 2013*
- For government departments in Schedule 1, the correct legal identity of the respondent is “**Secretary, [Name of Department]**” (see *Kelly v Secretary, Department of Family and Community Services* [2014] NSWCA 102 at [11]).

Department of Education,

Department of Family and Community Services,

Department of Finance, Services and Innovation,

Ministry of Health,

Department of Industry, Skills and Regional Development,

Department of Justice,

Department of Planning and Environment,

Department of Premier and Cabinet,

Department of Transport, and

The Treasury.



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## Government entities (e-Bulletin No 60, July 2015)

- In proceedings that involve:

Ambulance Service of New South Wales

New South Wales Hospitals

Local Area Health Services

New South Wales Police Force

the appropriate legal identity is “**State of New South Wales**” (see *Crown Proceedings Act 1988*; *State of New South Wales v Bishop* [2014] NSWCA 354 at [26]–[28]; *Bright v State of New South Wales* [2017] NSWDC 257 at [37]).



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## Proceedings

- Briefing counsel
- Conference with client
- Instructing at hearing



## Keep Informed

- e-Bulletins
- User group
- Publications – On Appeal, On Review
- Website ([wcc.nsw.gov.au](http://wcc.nsw.gov.au))
- Telephone



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**Questions?**